

FILED

NOV 16 2017

UNITED STATES DISTRICT COURT

for the
Eastern District of Tennessee
Civil DivisionClerk, U. S. District Court
Eastern District of Tennessee
At ChattanoogaJAMES R. WAITON
HELEN R. WAITONCase No. 1:17-mc-40
(to be filled in by the Clerk's Office)Plaintiff(s)
(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)Jury Trial: (check one) ☐ Yes ☐ No

TRM/SKL

-v-
Carrington Mortgage Services et al
Bank of America
Taylor, Bean & WhitakerDefendant(s)
(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

COMPLAINT FOR A CIVIL CASE

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	JAMES R. WAITON HELEN R. WAITON
Street Address	1725 Kingsley Ave
City and County	AKRON, OHIO
State and Zip Code	OHIO, 44313
Telephone Number	205-246-1143
E-mail Address	waiton893@gmail.com

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Defendant No. 1

Carrington mortgage services, LLC

Name

Job or Title (if known)

Street Address

1610 E Andrew Pl, Suite B150

City and County

Santa Ana,

State and Zip Code

California 92705

Telephone Number

800-561-4567

E-mail Address (if known)

Defendant No. 2

BANK of America

Name

Job or Title (if known)

Street Address

1800 TAPD Canyon Road

City and County

Semi Valley

State and Zip Code

California 93063

Telephone Number

800-444-4302

E-mail Address (if known)

Defendant No. 3

Taylor, Bean + Whitaker Mortgage Corp

Name

Job or Title (if known)

Street Address

1417 North Magnolia Ave

City and County

Ocala

State and Zip Code

Florida 34475

Telephone Number

E-mail Address (if known)

Defendant No. 4

Name

Job or Title (if known)

Street Address

City and County

State and Zip Code

Telephone Number

E-mail Address (if known)

II. Basis for Jurisdiction

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal court jurisdiction? *(check all that apply)*

☐ Federal question

☒ Diversity of citizenship

Fill out the paragraphs in this section that apply to this case.

A. If the Basis for Jurisdiction Is a Federal Question

List the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case.

B. If the Basis for Jurisdiction Is Diversity of Citizenship**1. The Plaintiff(s)****a. If the plaintiff is an individual**

The plaintiff, (name) JAMES R. WALTON, is a citizen of the
State of (name) OHIO.

b. If the plaintiff is a corporation

The plaintiff, (name) _____, is incorporated
under the laws of the State of (name) _____,
and has its principal place of business in the State of (name) _____.

(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)

2. The Defendant(s)**a. If the defendant is an individual**

The defendant, (name) _____, is a citizen of
the State of (name) _____. Or is a citizen of
(foreign nation) _____.

b. If the defendant is a corporation

The defendant, (name) Carrington mortgage services, is incorporated under the laws of the State of (name) Delaware, and has its principal place of business in the State of (name) California.
Or is incorporated under the laws of (foreign nation) _____, and has its principal place of business in (name) _____.

(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)

See attached page

3. The Amount in Controversy

The amount in controversy—the amount the plaintiff claims the defendant owes or the amount at stake—is more than \$75,000, not counting interest and costs of court, because (explain):

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

See attached page

IV. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

Because there is a dispute over ownership interest, a quiet title is appropriate. The value of the property is \$310,000. Because of the actions of the defendants, we're asking for punitive damages. We asking to be compensated for actual loss

Page 4 of 5

during the entire process.

Property foreclosed located at 1301 Windbrook Dr.
Case 1:17-cv-00330-TRM-SKE Document 1 Filed 11/16/17 Page 4 of 14 PageID #34343

Basis of Jurisdiction
Defendants

II

Bank of America

(b) defendant is a Corporation

Principal place of business in
State of, California

Taylor, Bean + Whitaker Mortgage
defendant is a Corporation

Principle place of Business in
State of, Florida

addition to 4 of 5

Statement of Claim.

I. Taylor, Bean & Whitaker Securitized the mortgage Oct, 2008. MERS was named beneficiary and was acting solely as a nominee.

II. Bank of America began servicing the loan in August of 2009. There was no one with standing to assign the Deed of Trust to Bank of America.

III. Bank of America assigned the Deed of Trust to Carrington mortgage Services Dec. 10, 2014. Because Bank of America did not have proper assignment of the Deed of Trust, Carrington could not have had proper assignment of the Deed.

IV. Carrington mortgage services foreclosed on the Property on Sept. 7, 2017, while on a dual track of a mortgage assistance Plan. Carrington did not have standing to foreclose.

addition to 4 of 5

V. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 11/14/17

Signature of Plaintiff

Printed Name of Plaintiff

James R. Walton
Helen R. Walton
JAMES R WALTON
HELEN R WALTON

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Street Address

State and Zip Code

Telephone Number

E-mail Address

FILED

UNITED STATES DISTRICT COURT

for the

Eastern District of Tennessee
Civil Division

NOV 16 2017

Clerk, U. S. District Court
Eastern District of Tennessee
At ChattanoogaJames R. WAITON
Helen R. WAITON

Case No. _____

(to be filled in by the Clerk's Office)

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

Jury Trial: (check one) ☐ Yes ☐ NoCarlington Mortgage Services et al
Bank of America
Taylor, Bean & Whitaker

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

COMPLAINT FOR A CIVIL CASE ALLEGING NEGLIGENCE

(28 U.S.C. § 1332; Diversity of Citizenship)

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

James R. WAITON
Helen R. WAITON

Street Address

1725 Kingsley Ave.

City and County

AKRON

State and Zip Code

OH:O 44313

Telephone Number

205-246-1143

E-mail Address

waiton893@gmail.com

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Defendant No. 1

Carrington Mortgage Services, LLC

Name

Job or Title (if known)

Street Address

City and County

State and Zip Code

Telephone Number

E-mail Address (if known)

1610 E Andrew PL, Suite B150
Santa Ana
California 92705
800-561-4567

Defendant No. 2

Bank of America

Name

Job or Title (if known)

Street Address

City and County

State and Zip Code

Telephone Number

E-mail Address (if known)

1800 TAPCO Canyon Road
Semi Valley
California 93063
800-444-4302

Defendant No. 3

Taylor, Bean & Whitaker

Name

Job or Title (if known)

Street Address

City and County

State and Zip Code

Telephone Number

E-mail Address (if known)

1417 North Magnolia Ave
Ocala
Florida 34475

Defendant No. 4

Name

Job or Title (if known)

Street Address

City and County

State and Zip Code

Telephone Number

E-mail Address (if known)

II. Basis for Jurisdiction

Federal courts are courts of limited jurisdiction (limited power). Under 28 U.S.C. § 1332, federal courts may hear cases in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000. In that kind of case, called a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff. Explain how these jurisdictional requirements have been met.

A. The Plaintiff(s)

1. If the plaintiff is an individual
The plaintiff, (name) James R. Walton
Helen R. Walton, is a citizen of the
State of (name) Ohio.
2. If the plaintiff is a corporation
The plaintiff, (name) _____, is incorporated
under the laws of the State of (name) _____,
and has its principal place of business in the State of (name) _____.

(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)

B. The Defendant(s)

1. If the defendant is an individual
The defendant, (name) _____, is a citizen of
the State of (name) _____. Or is a citizen of
(foreign nation) _____.
2. If the defendant is a corporation Corrington mortgage Services
The defendant, (name) Delaware, is incorporated under
the laws of the State of (name) California, and has its
principal place of business in the State of (name) _____.
Or is incorporated under the laws of (foreign nation) _____,
and has its principal place of business in (name) _____.

(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)

See attached page

C. The Amount in Controversy

The amount in controversy—the amount the plaintiff claims the defendant owes or the amount at stake—is more than \$75,000, not counting interest and costs of court, because (explain):

Basis of Jurisdiction
Defendants

II (b) Bank of America
defendant is a corporation
Principal Place of business in
State of California.

Taylor, Bean & Whitaker mortgage
defendant is a corporation
Principal Place of business in
State of, Florida

addition to 30f5

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

On (date) 9/7/2017, at (place) Chattanooga, Tenn.,
the defendant(s): (1) performed acts that a person of ordinary prudence in the same or similar circumstances would not have done; or (2) failed to perform acts that a person of ordinary prudence would have done under the same or similar circumstances because (describe the acts or failures to act and why they were negligent)
defendant failed to hold off on the foreclosure while a mortgage assistance plan was being reviewed

The acts or omissions caused or contributed to the cause of the plaintiff's injuries by (explain)

Defendant foreclosed on our mortgage without standing.

IV. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

See attached
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Statement of Claim.

- I. Taylor, Bean & Whitaker Securitized the mortgage Oct, 2008. MERS was named beneficiary and was acting solely as a nominee.
- II. Bank of America began servicing the loan in August of 2009. There was no one with standing to assign the Deed of Trust to Bank of America.
- III. Bank of America assigned the Deed of Trust to Carrington mortgage Services Dec 10, 2014. Because Bank of America did not have proper assignment of the Deed of Trust, Carrington could not have had proper assignment of the Deed.
- IV. Carrington mortgage services foreclosed on the Property on Sept. 7, 2017, while on a dual track of a mortgage assistance Plan. Carrington did not have standing to foreclose.

addition to 4 of 5

V. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: _____

Signature of Plaintiff _____

Printed Name of Plaintiff _____

11/14/17

James R. Walton

Helen R. Walton

JAMES R. WALTON
HELEN R. WALTON

B. For Attorneys

Date of signing: _____

Signature of Attorney _____

Printed Name of Attorney _____

Bar Number _____

Name of Law Firm _____

Street Address _____

State and Zip Code _____

Telephone Number _____

E-mail Address _____